

From: Don Kitchen
To: Microsoft ATR
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Subject: Microsoft Settlement

To whom it may concern

I am a senior systems engineer with a Fortune 500 consulting firm. I have a bachelors degree in computer science and am nearing completion in a master's degree in CS with an emphasis on operating systems.

I am writing to voice my opinion on the proposed Microsoft settlement. I am appalled at the degree to which the Justice department is neglecting the interests of consumers. Microsoft is a powerful company that has been found guilty of illegally extending and maintaining monopoly power. But proposed is basically no penalty to punish for ill-gotten gains. Does no one remember this is the second time around, and that Microsoft previously obtained a consent decree? It was so generous that Microsoft's stock immediately rose. In fact, I would say that the only reason that the case this time around awkwardly centered on browsers is that in the previous agreement, nobody thought to grant Microsoft a loophole to stifle competition in that area.

Those who suppose there has been little harm to the consumer ignore the realities of the computer industry. While costs in every other area go down, the software costs rise, especially when taken as a percentage of the whole system. Also, harm occurs in other ways; witness the recent Microsoft scheme to punish those who do not upgrade immediately to each new product, by eliminating "discounts". Microsoft's very profitability is evidence of their monopoly power. One might say that their investments and spare cash provide a good measure of how large to make the penalty.

Microsoft attributes their success to innovation. However, this neglects that the innovators were all with companies taken over by Microsoft's might. This also neglects the innovators stifled by Microsoft, whose monopoly position allows them great leverage against any competing technology. The way they have bundled the browser is just an obvious occurrence of standard practice. There is a joke that if someone made a new chair, Microsoft would innovate Microsoft Chair, and out of desire to provide their customers with everything they need, ship it with their operating system, with mysterious incompatibilities if anyone tried to sit in another brand chair while at their computer.

If allowed to continue leveraging one product to solidify the position of the next, the future of competition looks bleak. Microsoft has promoted its Office suite, web browser, and web server products to prominence based on the strength of its operating system. Since these products are available only for Microsoft's operating system, they in turn reinforce the original monopoly. In the office suite area, it's difficult for

competitors to be fully compatible because of changes in the file formats. As a part of the penalties against Microsoft, it should be mandated that all file formats and API's used be fully documented publicly. And unlike the errors in Section III(J)(2) there should be no loopholes to prevent disclosure to not-for-profit groups. Microsoft has abused its own discretion too many times to suppose they will not do it again.

Additionally, in recent years Microsoft has formulated its strategy for internet monopolies beyond the browser, which they will fortify with their existing monopolies. Chief among them are the Windows Media player and .NET. These should be addressed in the settlement, preferably by splitting them to individual companies forbidden to sign exclusive contracts, or Microsoft should be mandated to maintain full functionality on their top two competing operating systems (namely MacOS and Linux). In the area of streaming media, already Microsoft is pushing the innovators out of the field in favor of their own Windows Media player, which limits consumer choice because of course it is available only for Microsoft platforms.

The .NET scheme is especially designed to place a single entity as an essential element of any transaction that occurs. This transition is not one that occurs as a result of natural market forces, but rather one that can only be leveraged in by an existing monopoly, for the sole purpose of extending the monopoly. Yet the Department of Justice appears more interested in retreating with honor at the expense of consumer choice.

Another ignored consumer harm that has occurred is that Microsoft's products have gaping security holes. Yet they appear to be immune from product liability concerns. In fact, previous shortcomings only serve as inducement for consumers to purchase the next "new and improved" product. In other markets, product liability enforcement would force the vendor to reimburse consumers. Not so in this market. Recall the billions of dollars lost in such occurrences as "I love you", "code red", "nimda", and other embarrassments. Instead, consumers bear the cost. No doubt consumers will continue to bear the cost in the newest product cycle, with "Universal Plug & Play" starting off the new list of security problems; even the "solution" of continual updating only serves to bind consumers more tightly to the monopoly provider.

There are some who say that Microsoft should be rewarded because as a highly successful company they do much good for the economy. While it is true that as a monopoly they have been very successful at maintaining their monopoly, this theory ignores the fact that their income is someone else's expenses. By the same standards, we might laud Ponzi and Enron for the success of their efforts to extract monies from others, if large incomes are so good for a strong economy.

I plead for the current "surrender to Microsoft" to be rejected.

Thank you

Don Kitchen